



## FISCAL MEMORANDUM

### SB 946 - HB 1321

March 28, 2022

**SUMMARY OF BILL AS AMENDED (014344, 016492):** Expands the offense of reckless endangerment to include an act of community terrorism. Defines community terrorism as reckless endangerment that is committed against a population within a geographic territory by members of a criminal gang that regularly engages in gang-related conduct or has a pattern of criminal gang activity and the commission of the offense is gang-related. Adds reckless endangerment to the list of offenses a homeowner's association, neighborhood association, neighborhood watch or similarly organized residential entity is authorized to seek an injunction or restraining order prohibiting an offender who meets outlined criteria from entering the boundaries of the residential area.

### FISCAL IMPACT OF BILL AS AMENDED:

#### Increase State Expenditures – \$5,900 Incarceration

Assumptions for the bill as amended:

- Tennessee Code Annotated § 39-13-103(a) establishes that a person commits reckless endangerment who recklessly engages in conduct that places or may place another person in imminent danger of death or serious bodily injury.
- Pursuant to § 39-13-103(b):
  - Reckless endangerment is a Class A misdemeanor.
  - Reckless endangerment committed with a deadly weapon is a Class E felony.
  - Reckless endangerment by discharging a firearm or antique firearm into a habitation, is a Class C felony, unless the habitation was unoccupied at the time of the offense, in which event it is a Class D felony.
  - Reckless endangerment by discharging a firearm from within a motor vehicle, is a Class C felony.
  - In addition to such authorized penalties, the court shall assess a fine of \$50.00.
- The proposed legislation expands the offense of reckless endangerment to include an act of community terrorism. Per the language of the legislation, reckless endangerment committed by an act of community terrorism is punishable as a Class C felony and revocation or prohibition of issuance of a driver license for a period of five years from the date of conviction of such offense. A defendant is authorized to apply for issuance of a restricted license upon release from confinement, and if granted, pay \$65 in application fees to the Department of Safety (DOS) for a restricted driver license.
- This analysis assumes individuals charged with reckless endangerment by act of community terrorism pursuant to this legislation would be charged with a Class D felony

offense of reckless endangerment committed by discharging a firearm into an unoccupied habitation, pursuant to Tenn. Code Ann. § 39-13-103(b)(3) under current law.

- Based upon information provided by the Department of Correction (DOC), there has been an average of 0.50 admissions in each of the last 10 years for the Class D felony offense under Tenn. Code Ann. § 39-13-103(b)(3) for reckless endangerment committed by discharging a firearm into an unoccupied habitation, with an estimated average time served of 0.66 years, after adjusting for pre-trial jail credits.
- The average time served for a Class C felony is 1.59 years.
- Accounting for recidivism rates, the proposed legislation will result in 0.34 admissions annually serving an additional 0.93 years (1.59 – 0.66).
- Based on population data from the U.S. Census Bureau, population growth in Tennessee averaged 0.74 percent per year for each of the past 10 years (from 2010 to 2020).
- The weighted average operational costs per day are estimated to be \$51.36 for inmates housed at state facilities and \$48.77 for inmates housed at local facilities.
- The increase in incarceration costs are estimated to be the following over the next ten-year period:

Increase in State Expenditures	
Amount	Fiscal Year
\$ 2,100	FY22-23
\$ 5,900	FY23-24
\$ 5,900	FY24-25
\$ 5,900	FY25-26
\$ 5,900	FY26-27
\$ 5,900	FY27-28
\$ 5,900	FY28-29
\$ 5,900	FY29-30
\$ 5,900	FY30-31
\$ 5,900	FY31-32

- Pursuant to Tenn. Code Ann. § 9-4-210, recurring cost increases are to be estimated on the highest of the next ten fiscal years; therefore, the recurring increase in incarceration costs will be \$5,900.
- Any impact to the DOS resulting from driver license revocation and issuance of restricted driver licenses is estimated to be not significant.
- Based on the Fiscal Review Committee’s 2008 study and the Administrative Office of the Courts’ 2012 study on collection of court costs, fees, and fines, collection in criminal cases is insignificant. The proposed legislation will not significantly change state or local revenue.
- The estimated fiscal impact of the proposed legislation does not consider the availability of beds in state and local facilities, but is based solely on the current operating costs of state facilities and the reimbursement rates for local facilities as is required by Tenn. Code Ann. § 9-4-210.
- All calculations used in completion of this fiscal note are available upon request.

- Adding reckless endangerment to the list of offenses a homeowner's association, neighborhood association, neighborhood watch or similarly organized residential entity is authorized to seek an injunction or restraining order prohibiting an offender who meets outlined criteria from entering the boundaries of the residential area will primarily impact private entities and will not have a significant impact on the court system.

**CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink that reads "Krista Lee Carsner". The signature is written in a cursive, flowing style.

Krista Lee Carsner, Executive Director

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